

Charter Start!



EDUCATION LAW & CHARTER SCHOOLS



idaho charter school network

Have you ever asked yourself these questions?



- What laws should a charter school board be aware of? When does it become important?
- When should we engage an attorney?
- Do all charters have a lawyer on their board?
- How can the attorney on our board help?
- What laws/rules are most commonly overlooked or misunderstood by charter developers and operators?
- Could our enrollment procedure be challenged?
- Is our board and administrator clear about their legal responsibilities?

Overview of Today's Workshop



- Review the laws that do apply to Idaho Public Charter Schools and where to find them [*Diane Demarest*]
- Hear from a lawyer on his role on a board and considerations for conflicts of interest [*Bill Ramey*]
- What laws/rules are most frequently misunderstood or overlooked in petitions? [*Tamara Baysinger*]
- Case illustration: When a charter school faced a legal challenge – lessons learned [*Glenn Mabile*]
- Even when a school is operating appropriately, they are vulnerable to attacks from disgruntled individuals. How can you decrease your risk? [*Diane & Shirley*]
- Discussion and Questions

When Does a Charter Interface with Law?



- During petition phase prior to authorization you must illustrate your readiness to comply with law and rule.
 - Charter Start Program
 - Review all laws that govern charter schools in Idaho
 - Identify resources
 - Provisions in your charter that you will live by and in your policies and procedures.
- Your founding and operating boards need to be aware of the law and how your school complies.
 - Board agreement
 - Conflict of interests in recruiting
 - Board training – ongoing
 - Board self-evaluation
 - Programmatic audits

When Does a Charter Interface with Law?



- Throughout the life of the school you will be expected to operate according to the law.
 - Compliance with Title 33, Chapter 52, Idaho Code
 - Keep up to date on any new rules or changes
 - Compliance with terms of your charter
 - Annual fiscal and programmatic audits
- Failing to operate within the law may risk legal action, withholding of funding or notice of defect from authorizer. Especially vulnerable are any federal funds you accept.

Laws & Rules Governing Public Charter Schools



Fall into 4 basic areas:

1. Civil Rights
2. Special Education
3. Other Federal Regulations
4. State Regulatory Issues

Civil Rights - Equity



- Any school receiving federal funding must be open to all students who apply, or admit students by lottery. Several state laws contain provisions to insure compliance with federal law:
 - Enrollment Procedures – without regard to academic ability, reflect demographics of district
 - Lottery system [Idaho code 33-5205(3)(j) – Rule IDAPA 08 Title 02 Chapter 04
 - Transportation
 - No discrimination on the basis of race, color, national origin, sex or disability.

NW Resource



- The Equity Center at the Northwest Regional Labs helps public schools and communities incorporate educational equity into **policies, procedures, and classroom practices** to ensure that each student receives what she or he needs to succeed academically.

<http://www.nwrel.org/cnorse/>

800-547-6339 extension 603

Family Involvement



Family involvement becomes an equity challenge when the schools are faced with figuring out how to involve parents, children and others, in the learning process if the communicator and the listener speak two different languages, or if there is some other type of barrier between them. Suggestions:

- Communicate your requirements clearly with potential parents
- Define family involvement broadly
- Offer a wide variety of activities at different times to ensure all families will be able to participate (materials translated, child care, transportation, interpretation as needed)

Does our state law allow for parental participation requirements?

Will your policy require or suggest parental involvement?

Civil Rights Laws



- Title VI Civil Rights Act 1964
(www.ed.gov/offices/OCR/ocrtt16.html)
 - Prohibits discriminatory actions including the provision of services/financial aid/benefits; segregation or separate treatment; denying opportunities.
- Title VII Civil Rights Act 1964
 - Prohibits discrimination in employment
- Title IX of the Education Amendment of 1972
 - No person shall be denied opportunities based on their sex

Civil Rights Regional Office

Seattle Office – US Dept of Education

915 Second Ave, Room 3310, 10-9010

Seattle, WA 98174 (206)220-7880

Funding



Funding for facilities and programs are often a challenge for charter schools. Remember, lack of funding is not a valid reason to exclude students, nor is exclusion legal.

Special Education



- Section 504 of the Rehabilitative Act 1973
- Individuals with Disabilities Education Act (IDEA)
- Title II American with Disabilities Act 1990 (ADA)

See summary chart of the laws

How can a new charter comply?

- Collaborate with local school (LEA)
- Plan ahead – petition, staffing, space for student services
- Work with SDE and Regional consultants
- Contract services in the most cost-effective ways
- Educate staff on recruiting and enrollment procedures

Special Ed Resources



- www.dsssc.org/frc Federal Resource Center for Special Education
- www.nichcy.org Nat'l Center for Children and Youth with Disabilities
- Idaho State Department of Education website (Programs)

Other Federal Regulations



- FERPA (Family Education Rights & Privacy Act 1974)
- Equal Access Act
- Fair Labor Standards Act (staff)
- Family & Medical Leave Act (staff)
- Occupational Safety & Health Act (OSHA) 1970
- Drug-Free Workplace Act 1988
- Drug-Free Schools & Campuses

www.ed.gov

State Regulatory Issues



- Idaho Public Charter School Law Title 33 Chapter 52
- Idaho Open Meeting Law
- Idaho Public Records Law

http://www.sde.idaho.gov/site/charter_schools/laws_regs.htm

LexisNexis www.lexisnexis.com/bookstore

Legal Status



Charter schools need legal status to own property, sue or be sued, incur debt, control budget and personnel, and contract for services.

In Idaho:

- Nonprofit corporation (Idaho non-profit corp act)
- Tax exempt
- Governmental entity

Idaho Public Charter School Law Title 33 Chapter 52 outlines the expectations for your organization. Stay up on any changes to the law or rules.

Open Meeting Law



Idaho Code 67-2340 (www.ag.idaho.gov)

“The public’s business ought to be done in public”

Lawrence Wasden, Attorney General

What does it mean for a Charter School?

- Where you hold meetings (accessible)
 - Notice of meetings (# days prior, public notice of meeting & agenda)
 - Written minutes of meetings – public record and evidence of compliance.
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- *See Open Meeting Law Checklist handout*

Public Records Law



Idaho Code 9-337

It is the intention of the Idaho Legislature that all records maintained by state and local government entities be available for public access and copying. Balance need for openness with need for privacy. The code states that

“all public records in Idaho are open at all reasonable times for inspection except as otherwise expressly provided by statute”

- Individuals must have access to records about themselves.
- Teacher personnel files are not subject to public records requests.
- Student files are exempt from public records requests.

Facilities & Health Issues



- Comply with OSHA requirements – check with local or state board of health.
- Clear policies in accordance with state regulations. Publish in your student/parent/staff handbook. For example:
 - Immunizations
 - First aid and medical treatment
 - Health screening
 - Disease prevention
 - Drug, alcohol and tobacco free schools
 - School lunch program

Safety



Policies and procedures in accordance with state regulations as well as working with your insurance provider or risk management expert for a comprehensive risk management plan.

- Facilities safety
- Disaster preparedness
- Emergency action plan
- Building and zone codes
- Transportation
- Employee background checks
- Child abuse reporting

*Resource: Idaho State Boards Assoc. Model Policy Manual
Local District's Policy Manual other charters.*

This may be the topic of future workshop with sample policies & procedures.

The Role of Attorneys



- Should you have an attorney on the board?
- What are the possible limitations or conflicts of interest?
- Can an attorney offer his services pro-bono?
- When should you retain an attorney?

Bill Ramey is a practicing attorney with Thornton Byron LLP. He also serves as the chair of the board of the Garden City Community Charter School.

Frequently Misunderstood Laws/Rules



An increasing number of petitions are moving on to the Commission for consideration. Tamara will share some of the most common areas that are overlooked or misunderstood by petitioners.

What strategies help ensure that you don't make those errors?

What if the law is vague on an issue that you're concerned about?

What are the legal responsibilities of the board?



- Is our board and administrator clear about their legal responsibilities?
 - Do you have a letter of commitment for board members?
 - Do you have a board manual and orientation process?
 - Do you conduct board training and evaluation?

Resources:

www.boardsource.org (Board source has many free resources)

www.acc.com (Association of Corporate Counsel)

www2.state.id.us/ag (Office of the Idaho Attorney General)

Case Illustration



When a charter school faces a legal challenge – **Lessons learned**

Glenn Mabile is the business manager and one of the founding staff at the Coeur d'Alene Academy. They were one of the first charters to open in Idaho and have blazed some important territory.

What is your legal health?



Even when a school is operating appropriately, they are vulnerable to attacks from disgruntled individuals.

How can you decrease your risk?

*Article: Top Ten Trends Nonprofit Counsel Need to Know, Jeffrey S. Tenenbaum, Partner
NOPGV, LLP www.acc.com*

Xavier Charter School –

Recommendations from Head of School Cindy Fulcher

- Open communication
- Transparent with SDE
- Get support and assistance
- Clear policies and rationale
- No knee-jerk responses



Questions for our panel members?

Handout Resource List:



- Top Ten Trends Nonprofit Counsel Need to Know
- Open Meeting Law Checklist & Table of Spec Ed Law
- Idaho Title 33 Chapter 52
- Rules Governing Idaho Charter Schools
- Q&A on Board Responsibilities
- Sample Board Agreements